

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**A.G., a minor child; D.A., a minor child;)
A.L., a minor child; M.K., a minor child;)
and M.H., a minor child;)**

PLAINTIFFS,)

VS.)

CASE NO: 2:05-CV-1090-W

**AUTAUGA COUNTY BOARD OF)
EDUCATION; JOSEPH BUTLER)
and TERRY WRIGHT,)**

DEFENDANTS.)

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO RECONSIDER ITS
MOTION TO AMEND THEIR COMPLAINT OR IN THE ALTERNATIVE MOTION
TO VACATE THE COURT'S ORDER**

COME NOW defendants Autauga County Board of Education and Joseph L. Butler and respectfully provide the following opposition to plaintiffs' "Motion to Reconsider its Motion to Amend their Complaint or in the alternative Motion to Vacate the Court's Order":

1. Plaintiffs still have not shown this Court "good cause" for their failure to add Ms. Cleveland as a defendant during the time frame set out by this Court's Scheduling Order.

2. Plaintiffs argue that the defendants do not list Ms. Cleveland in their initial disclosures "as a person with knowledge of Plaintiff's claims."

3. However, the defendants were not required to list all persons with knowledge of the plaintiffs' claims in their disclosures, but only those "that the disclosing party may use to support its...defenses...." F.R.C.P. 26(a)(1)(A).

4. Until the defendants received plaintiff counsel Michael Crow's affidavit regarding his discussion with a former Autauga County Board of Education employee about Ms. Cleveland,

the defendants were not planning on using Ms. Cleveland in support of their defenses.

5. In light of Mr. Crow's representations to this Court in that affidavit, the defendants have amended their initial disclosures to add Ms. Cleveland as a person likely to have discoverable information which would be helpful to their defense.

6. Defendants will be prejudiced if the plaintiffs are allowed to amend their Complaint to add a new defendant at this point, since, contrary to the plaintiffs' representation that "virtually no discovery has taken place in this case," the parties have engaged in substantial discovery. The defendants have taken the depositions of almost all of the plaintiffs, and paper discovery is almost complete. Furthermore, plaintiffs' counsel has already taken the deposition of co-defendant Terry Wright in this matter.

WHEREFORE, PREMISES CONSIDERED, Defendants Autauga County Board of Education and Joseph L. Butler respectfully oppose plaintiffs' "Motion to Reconsider its Motion to Amend their Complaint or in the alternative Motion to Vacate the Court's Order."

Respectfully submitted,

s/Mark S. Boardman

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CERTIFICATE OF SERVICE

I hereby certify that I have on this **21st** day of **June, 2006**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/Mark S. Boardman
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